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TO: USPTO

ZILKA-KOTAB, PC

FEB 16 2006

NO. 2012 P. 1

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## FAX COVER SHEET

Date: February 16, 2006	Phone Number	Fax Number
To: Examiner DUONG		(571) 273-8300
From: Kevin J. Zilka		

Docket No.: NVIDP374/P002185

App. No: 09/905,678

Total Number of Pages Being Transmitted, Including Cover Sheet: 28

### Message:

Please deliver to the Examiner Duong.

Thank you,

Kevin J. Zilka

☐ Original to follow Via Regular Mail ☒ Original will Not be Sent ☐ Original will follow Via Overnight Courier

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February 15, 2006

FEB 16 2006

Practitioner's Docket No. NVIDP374/P002185

PATENT

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Umair A. Khan et al.

Application No.: 09/905,678

Group No.: 2155

Filed: 07/13/2001

Examiner: Duong, O.

For: SYSTEM, METHOD, AND COMPUTER PROGRAM PRODUCT FOR AN INFORMATION HUB

Mail Stop Appeal Briefs – Patents  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450TRANSMITTAL OF APPEAL BRIEF  
(PATENT APPLICATION–37 C.F.R. § 41.37)

1. Transmitted herewith, is the APPEAL BRIEF in this application, with respect to the Notice of Appeal filed on December 21, 2005.
2. STATUS OF APPLICANT

This application is on behalf of other than a small entity.

## CERTIFICATION UNDER 37 C.F.R. §§ 1.8(a) and 1.10\*

(When using Express Mail, the Express Mail label number is mandatory;  
Express Mail certification is optional.)

I hereby certify that, on the date shown below, this correspondence is being:

## MAILING

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37 C.F.R. § 1.8(a)  
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## TRANSMISSION

✓ facsimile transmitted to the Patent and Trademark Office, (571) 273 - 8300.

Date:

2/16/06

Signature

Erica L. Farlow

(type or print name of person certifying)

\* Only the date of filing (' 1.6) will be the date used in a patent term adjustment calculation, although the date on any certificate of mailing or transmission under ' 1.8 continues to be taken into account in determining timeliness. See ' 1.703(f). Consider "Express Mail Post Office to Addressee" (' 1.10) or facsimile transmission (' 1.6(d)) for the reply to be accorded the earliest possible filing date for patent term adjustment calculations.

Transmittal of Appeal Brief--page 1 of 2

FEB 16 2006

## 3. FEE FOR FILING APPEAL BRIEF

Pursuant to 37 C.F.R. § 41.20(b)(2), the fee for filing the Appeal Brief is:

other than a small entity \$500.00

Appeal Brief fee due \$500.00

## 4. EXTENSION OF TERM

The proceedings herein are for a patent application and the provisions of 37 C.F.R. § 1.136 apply.

Applicant's believe no that no extension of time is necessary. However, if an additional extension of time is required, please consider this a petition therefor.

## 5. TOTAL FEE DUE

The total fee due is:

Appeal brief fee \$500.00

Extension fee (if any) \$0.00

TOTAL FEE DUE \$500.00

## 6. FEE PAYMENT

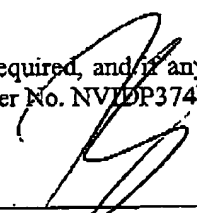
Authorization is hereby made to charge the amount of \$500.00 to Deposit Account No. 50-1351 (Order No. NVIDP374).

A duplicate of this transmittal is attached.

## 7. FEE DEFICIENCY

If any additional extension and/or fee is required, and if any additional fee for claims is required, charge Deposit Account No. 50-1351 (Order No. NVIDP374).

Reg. No.: 41,429  
Tel. No.: 408-971-2573  
Customer No.: 28875

  
\_\_\_\_\_  
Signature of Practitioner  
Kevin J. Zilka  
Zilka-Kotab, PC  
P.O. Box 721120  
San Jose, CA 95172-1120  
USA

Transmittal of Appeal Brief--page 2 of 2

FEB 16 2006

## PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:	)	
	)	
Khan et al.	)	Group Art Unit: 2155
	)	
Application No. 09/905,678	)	Examiner: Duong, Oanh L.
	)	
Filed: July 13, 2001	)	Date: February 16, 2006
	)	
For: SYSTEM, METHOD AND	)	
COMPUTER PROGRAM PRODUCT FOR	)	
<u>AN INFORMATION HUB</u>	)	

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**ATTENTION: Board of Patent Appeals and Interferences****APPEAL BRIEF (37 C.F.R. § 41.37)**

This brief is in furtherance of the Notice of Appeal, filed in this case on December 21, 2005.

The fees required under § 1.17, and any required petition for extension of time for filing this brief and fees therefor, are dealt with in the accompanying TRANSMITTAL OF APPEAL BRIEF.

This brief contains these items under the following headings, and in the order set forth below (37 C.F.R. § 41.37(c)(i)):

- I REAL PARTY IN INTEREST
- II RELATED APPEALS AND INTERFERENCES
- III STATUS OF CLAIMS
- IV STATUS OF AMENDMENTS
- V SUMMARY OF CLAIMED SUBJECT MATTER
- VI ISSUES
- VII ARGUMENTS
- VIII APPENDIX OF CLAIMS INVOLVED IN THE APPEAL

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IX APPENDIX LISTING ANY EVIDENCE RELIED ON BY THE APPELLANT IN THE  
APPEAL

X RELATED PROCEEDING APPENDIX

The final page of this brief bears the practitioner's signature.

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**I REAL PARTY IN INTEREST (37 C.F.R. § 41.37(c)(1)(i))**

The real party in interest in this appeal is NVIDIA Corporation.

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**II RELATED APPEALS AND INTERFERENCES (37 C.F.R. § 41.37(c) (1)(ii))**

With respect to other prior or pending appeals, interferences, or related judicial proceedings that will directly affect, or be directly affected by, or have a bearing on the Board's decision in the pending appeal, there are no other such appeals, interferences, or related judicial proceedings.

Since no such proceedings exist, no Related Proceedings Appendix is appended hereto.

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### **III STATUS OF CLAIMS (37 C.F.R. § 41.37(c) (1)(iii))**

#### **A. TOTAL NUMBER OF CLAIMS IN APPLICATION**

Claims in the application are: 1-19

#### **B. STATUS OF ALL THE CLAIMS IN APPLICATION**

1. Claims withdrawn from consideration: None
2. Claims pending: 1-19
3. Claims allowed: None
4. Claims rejected: 1-19

#### **C. CLAIMS ON APPEAL**

The claims on appeal are: 1-19

See additional status information in the Appendix of Claims.



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**IV STATUS OF AMENDMENTS (37 C.F.R. § 41.37(c)(1)(iv))**

As to the status of any amendment filed subsequent to final rejection, there was an amendment filed after final on October 20, 2005, but it was un-entered by the Examiner.

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**V SUMMARY OF CLAIMED SUBJECT MATTER (37 C.F.R. § 41.37(c)(1)(v))**

With respect to a summary of Claims 1 and 10, as shown in Figure 9, a technique is provided for network-based information management, including initiating a first habitat having markers utilized for identifying information selected by a user (e.g. item 902 of Figure 9) and retrieving the information associated with the markers (e.g. item 904 of Figure 9). The technique further includes displaying the selected information on an information screen of the first habitat utilizing a network (e.g. item 906 of Figure 9), and allowing a plurality of users to view the information screen of the first habitat (e.g. item 908 of Figure 9). In use, the first habitat is allowed to send a request to a second habitat for desired information and access the second habitat for retrieving the requested information from the second habitat, where the second habitat sends information matching the request directly to the first habitat (e.g. item 910 of Figure 9). See page 27, lines 10-25, for example.

With respect to a summary of Claim 19, the above summary is incorporated, at least in part, by reference. In addition, as shown in Figure 9, a user viewing the first habitat is provided with the ability to jump directly to the second habitat for viewing information in the second habitat (e.g. item 910 of Figure 9). See page 28, lines 26-27, for example.

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**VI ISSUES (37 C.F.R. § 41.37(c)(1)(vi))**

Following, under each issue listed, is a concise statement setting forth the corresponding ground of rejection.

Issue # 1: The Examiner has objected to Claims 4 and 19 due to informalities.

Issue # 2: The Examiner has rejected Claims 1-3 and 5-18 under 35 U.S.C. 103(a) as being unpatentable over Timmons, U.S. Patent No. 6,735,586, in view of Borger et al., U.S. Patent Application No. 2002/0123334.

Issue # 3: The Examiner has rejected Claims 4 and 19 under 35 U.S.C. 103(a) as being unpatentable over Timmons, U.S. Patent No. 6,735,586, in view of Borger et al., U.S. Patent Application No. 2002/0123334, in further view of Young et al., U.S. Patent Application No. 2002/0130894.

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**VII ARGUMENTS (37 C.F.R. § 41.37(c)(1)(vii))**

The claims of the groups noted below do not stand or fall together. In the present section, appellants explain why the claims of each group are believed to be separately patentable.

Issue # 1:

The Examiner has objected to Claims 4 and 19 due to informalities.

*Group # 1: Claims 4 and 19*

Appellants attempted to avoid such objection via the un-entered clarifications made to Claims 4 and 19 in the Amendment dated 10/20/2005. Irregardless as to whether such clarifications were entered or not, appellants respectfully disagree with such objection.

Issue # 2:

The Examiner has rejected Claims 1-3 and 5-18 under 35 U.S.C. 103(a) as being unpatentable over Timmons, U.S. Patent No. 6,735,586, in view of Borger et al., U.S. Patent Application No. 2002/0123334.

*Group #1: Claims 1, 3, 5, 6, 9, 10, 12-15 and 18*

With respect to independent Claims 1 and 10, the claims require "allowing the first habitat to send a request to a second habitat for desired information and access the second habitat for retrieving the requested information from the second habitat, the second habitat sending information matching the request directly to the first habitat." As indicated in the Office Action dated 06/21/05, the Examiner concedes that Timmons fails to teach this feature, but then relies on Borger to suggest the same.

Appellants contend that Borger fails to teach or suggest the limitation of allowing the first habitat to send a request to a second habitat for desired information and access the second habitat for

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retrieving the requested information from the second habitat, the second habitat sending information matching the request directly to the first habitat. Particularly, Borger fails to teach or suggest use of habitats at all. Rather, Borger's system merely retrieves content from a second server for inclusion in a requested web page. The example of retrieving data from a second server given throughout Borger is that of retrieving advertisements from an ad server. See, for example, paragraphs 20 and 46 in Borger. Such a second server is not the same as, nor does it suggest, a second habitat, as claimed.

The law is well settled that a claim term will be given its broadest reasonable interpretation unless the applicant has provided a clear definition in the specification. In other words, an applicant may be his own lexicographer. MPEP 2111. In the instant case, a "habitat" is defined on p. 26, lines 14-23 as a personalized information management system that gathers, stores and displays information of interest to the user. Neither Timmons nor Borger teach or suggest retrieving information from a second habitat as defined in the present specification. Nowhere does Borger suggest that the second ("ad") server contains a personalized information management system that gathers, stores and displays information of interest to a user, i.e., second habitat. Rather, Borger's second server is merely a content server as already disclosed in Timmons. Particularly, see Timmons col. 9, lines 23-34, where Timmons describes the process for delivering information to a client. As in Borger, Timmons' web page does not contain all of the content, but has a reference 602 that calls for content from a cluster of content servers. These content servers merely retrieve content from target websites. Borger's ad server appears to be akin to the content server of Timmons. And as conceded in the Office Action, Timmons does not disclose the second habitat limitation of the claims.

Accordingly, the proposed combination of references fails to teach or disclose "allowing the first habitat to send a request to a second habitat for desired information and access the second habitat for retrieving the requested information from the second habitat, the second habitat sending information matching the request directly to the first habitat" (emphasis added), as required by Claims 1 and 10.

In the Advisory Action dated 11/8/2005, the Examiner has responded to appellants' arguments by now asserting that "Timmons does teach a second habitat .... [and a] second habitat [that]

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retrieves information from the first habitat.” It thus appears that the Examiner is now contradicting his previous argument that Timmons fails to disclose appellant’s claimed “allowing the first habitat to send a request to a second habitat for desired information and access the second habitat for retrieving the requested information from the second habitat, the second habitat sending information matching the request directly to the first habitat.”

For the record, appellants disagree with this most recent, contradictory argument, and agree with the Examiner’s argument that Timmons fails to meet the foregoing limitations. In any case, appellants address the Examiner’s new, contradictory argument below.

Specifically, the Examiner now relies on portal servers 604-610 from Figure 6C and the excerpt in Timmons below to meet appellant’s claimed “second habitat.”

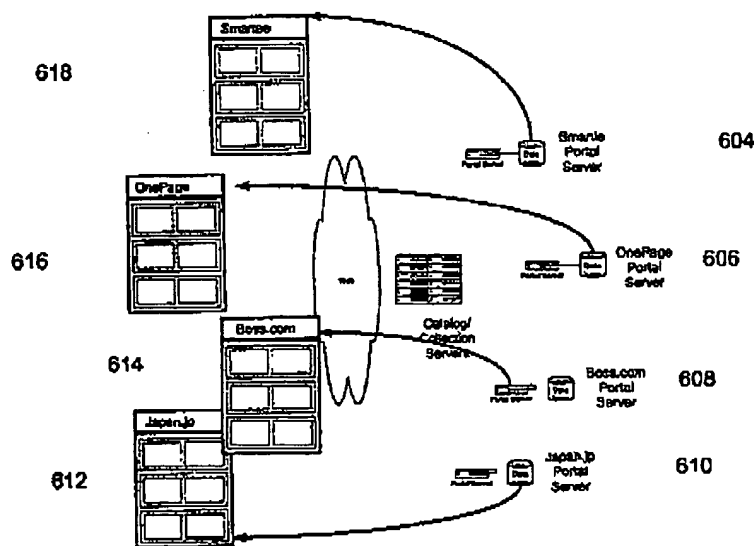


Fig 6C

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"For example, the four different portal servers 604-610 illustrated in FIG. 6C can be located across the world and have different user interfaces, languages, and features." (see col. 9, line 48)

However, even if the portal servers 604-610 from Timmons were relied upon to meet appellant's claimed "second habitat," it is noted that the functionality surrounding such claimed "second habitat" has still not been met.

In particular, neither reference (nor the references combined) even suggests "allowing a first habitat to send a request to a second habitat for desired information and access the second habitat for retrieving the requested information from the second habitat, where the second habitat sends information matching the request directly to the first habitat" (emphasis added), as claimed. Again, Borger fails to even suggest any sort of habitat, and the Timmons/Borger combination simply does not disclose the foregoing specifically claimed interaction between a first and second habitat. Only appellants teach and claim such a particularly claimed request and retrieval of information between two habitats.

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art and not based on appellant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed.Cir.1991). Appellants respectfully assert that at least the first and third elements of the *prima facie* case of obviousness have not been met.

With respect to the third element of the *prima facie* case of obviousness, such element has not been met, since the prior art references, when combined, fail to teach or suggest all of the claim limitations, as noted above.

Further, with respect to the first element of the *prima facie* case of obviousness, the Examiner has asserted that "[i]t would have been obvious to a person of ordinary skill in the art at the time of the invention was made to combine the teachings of Timmons to include allowing the first

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habitat to send a request to a second habitat for desired information and access the second habitat for retrieving the requested information from the second habitat, the second habitat sending information matching the request directly to the first habitat as taught by Borger because it would enable content to be dynamically inserted into web document quickly and reliably.” Appellants respectfully disagree with this proposition, especially in view of the vast evidence to the contrary.

First, as previously argued by appellant, Borger does not meet appellant’s claim limitations (e.g. “first habitat,” surrounding functionality, etc.), contrary to the assertion made in the Examiner’s previously cited motivation. Further, it appears that the Examiner agrees with appellant’s arguments, since the Examiner has entered new, contradictory arguments in the latest Advisory Action (as noted above), which are inconsistent with the Examiner’s previously cited motivation.

Thus, the motivation originally cited by the Examiner is, at least in part, no longer valid. To this end, the Examiner fails to cite a valid, specific motivation in the above references to support the case for combining the same. The Examiner is reminded that the Federal Circuit requires that there must be some logical reason apparent from the evidence of record that would justify the combination or modification of references. *In re Regel*, 188 USPQ 132 (CCPA 1975).

Appellants thus respectfully assert that at least the first and third element of the *prima facie* case of obviousness have not been met, for at least the reasons noted above.

*Group #2: Claims 2 and 11*

Claims 2 and 11 require that the second habitat retrieves information from the first habitat. Again, none of the references disclose a second habitat, etc., as noted above. Further, even if the references were found to anticipate Claims 1 and 10, they would not anticipate Claims 2 and 11. Specifically, the section relied on in Timmons (col. 9, lines 44-46), actually refers to allowing remote portal server 604-610 to access the same collection server 612 via the network. Note Timmons col. 9, lines 47-55, which discusses how the portal server can be anywhere in the world and yet retrieve information from remote collection servers 612. As noted in col. 9, lines 34-38, the main page creation (for presentation to the user) is separated from the collection and delivery



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of information. Thus, the portal servers, which forward the information to the user, do not contact each other, but rather only communicate with the content collection servers 612. Accordingly, the rejection of claims 2 and 11 is improper.

Appellants thus respectfully assert that at least the third element of the *prima facie* case of obviousness has not been met, since the prior art references, when combined, fail to teach or suggest all of the claim limitations, as noted above.

*Group #3: Claims 7 and 16*

The Examiner has relied on Col. 4, lines 50-59 in Timmons to make a prior art showing of appellants' claimed technique "wherein an application communicates with the first habitat for retrieving information therefrom." Appellants respectfully assert that such excerpt only generally teaches a "script written in the content collection language" where the content collection language simply "employs only the code required for interpreting the individual commands present in a script and not the totality of commands in the language" (see Col. 4, lines 29-40). Clearly, a script that only interprets individual commands, as disclosed in Timmons, does not even suggest "an application[that] communicates with the first habitat for retrieving information therefrom," as specifically claimed by appellants (emphasis added).

Appellants thus respectfully assert that at least the third element of the *prima facie* case of obviousness has not been met, since the prior art references, when combined, fail to teach or suggest all of the claim limitations, as noted above.

*Group #4: Claims 8 and 17*

The Examiner has relied on Col. 4, lines 51-64 in Timmons to make a prior art showing of appellants' claimed technique "wherein the first habitat interacts with an application for performing tasks." Appellants respectfully assert that such excerpt only teaches that a "script written in the content collection language may be interpreted over a distributed set of processors" and that "content collect language is recursive, object-oriented scripting language." Clearly, such teachings do not even suggest any sort of first habitat, let alone a "first habitat [that]

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interacts with an application for performing tasks,” as specifically claimed by appellants (emphasis added).

Appellants thus respectfully assert that at least the third element of the *prima facie* case of obviousness has not been met, since the prior art references, when combined, fail to teach or suggest all of the claim limitations, as noted above.

Issue # 3:

The Examiner has rejected Claims 4 and 19 under 35 U.S.C. 103(a) as being unpatentable over Timmons, U.S. Patent No. 6,735,586, in view of Borger et al., U.S. Patent Application No. 2002/0123334, in further view of Young et al., U.S. Patent Application No. 2002/0130894.

*Group #1: Claim 4*

Regarding claim 4, Young merely shows jumping to another web page upon selecting a hyperlink. This is very different from jumping to a habitat, as the term defined in the specification. Again, none of the references teach communications between multiple habitats.

Appellants thus respectfully assert that at least the third element of the *prima facie* case of obviousness has not been met, since the prior art references, when combined, fail to teach or suggest all of the claim limitations, as noted above.

*Group #2: Claim 19*

Appellants respectfully assert that the limitations of Claim 19 are not met by the prior art for substantially the same reasons as argued above with respect to independent Claims 1 and 10 and dependent Claim 4 under Issue #2, Group #1 and Issue #3, Group #1 respectively.

Appellants thus respectfully assert that at least the third element of the *prima facie* case of obviousness has not been met, since the prior art references, when combined, fail to teach or suggest all of the claim limitations, as noted above.

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In view of the remarks set forth hereinabove, all of the independent claims are deemed allowable, along with any claims depending therefrom.

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**VIII APPENDIX OF CLAIMS (37 C.F.R. § 41.37(c)(1)(viii))**

The text of the claims involved in the appeal (along with associated status information) is set forth below:

1. (Previously Presented) A method for network-based information management, comprising the steps of:
  - (a) initiating a first habitat having markers utilized for identifying information selected by a user;
  - (b) retrieving the information associated with the markers;
  - (c) displaying the selected information on an information screen of the first habitat utilizing a network;
  - (d) allowing a plurality of users to view the information screen of the first habitat; and
  - (e) allowing the first habitat to send a request to a second habitat for desired information and access the second habitat for retrieving the requested information from the second habitat, the second habitat sending information matching the request directly to the first habitat.
2. (Original) A method as recited in claim 1, wherein the second habitat retrieves information from the first habitat.
3. (Original) A method as recited in claim 2, wherein the first habitat selects portions of the retrieved information for display based on user-input.
4. (Previously Presented) A method as recited in claim 1, wherein a user viewing the first habitat is provided with the ability to jump directly to the second habitat for viewing information in the second habitat.
5. (Original) A method as recited in claim 1, wherein the first habitat sends out a request for desired information to a plurality of habitats and retrieves the desired information from at least one of the habitats responding to the request.

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6. (Original) A method as recited in claim 1, wherein the first habitat is in communication with a plurality of habitats such that a sub-network of habitats is formed.
7. (Original) A method as recited in claim 1, wherein an application communicates with the first habitat for retrieving information therefrom.
8. (Original) A method as recited in claim 1, wherein the first habitat interacts with an application for performing tasks.
9. (Original) A method as recited in claim 1, wherein each of the habitats has an assigned address.
10. (Previously Presented) A computer program product for network-based information management, comprising:
  - (a) computer code for initiating a first habitat having markers utilized for identifying information selected by a user;
  - (b) computer code for retrieving the information associated with the markers;
  - (c) computer code for displaying the selected information on an information screen of the first habitat utilizing a network;
  - (d) computer code for allowing a plurality of users to view the information screen of the first habitat; and
  - (e) computer code for allowing the first habitat to send a request to a second habitat for desired information and access the second habitat for retrieving the requested information from the second habitat, the second habitat sending information matching the request directly to the first habitat.
11. (Original) A computer program product as recited in claim 10, wherein the second habitat retrieves information from the first habitat.
12. (Original) A computer program product as recited in claim 11, wherein the first habitat selects portions of the retrieved information for display based on user-input.

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13. (Original) A computer program product as recited in claim 11, wherein the first habitat connects directly to the second habitat for retrieving the information from the second habitat.
14. (Original) A computer program product as recited in claim 10, wherein the first habitat sends out a request for desired information to a plurality of habitats and retrieves the desired information from at least one of the habitats responding to the request.
15. (Original) A computer program product as recited in claim 10, wherein the first habitat is in communication with a plurality of habitats such that a sub-network of habitats is formed.
16. (Original) A computer program product as recited in claim 10, wherein an application communicates with the first habitat for retrieving information therefrom.
17. (Original) A computer program product as recited in claim 10, wherein the first habitat interacts with an application for performing tasks.
18. (Original) A computer program product as recited in claim 10, wherein each of the habitats has an assigned address.
19. (Previously Presented) A system for network-based information management, comprising:
  - (a) logic for initiating a first habitat having markers utilized for identifying information selected by a user;
  - (b) logic for retrieving the information associated with the markers;
  - (c) logic for displaying the selected information on an information screen of the first habitat utilizing a network;
  - (d) logic for allowing a plurality of users to view the information screen of the first habitat; and

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- (e) logic for allowing the first habitat to send a request to several habitats for desired information and access one or more of the habitats responding to the request for retrieving the requested information from the habitat responding to the request, the habitat responding to the request sending information matching the request directly to the first habitat;
- (f) wherein a user viewing the first habitat is provided with the ability to jump directly to a second habitat for viewing information in the second habitat.

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**IX APPENDIX LISTING ANY EVIDENCE RELIED ON BY THE  
APPELLANT IN THE APPEAL (37 C.F.R. § 41.37(c)(1)(ix))**

There is no such evidence.



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**X RELATED PROCEEDING APPENDIX (37 C.F.R. § 41.37(c)(1)(x))**

There is no such related proceeding.

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In the event a telephone conversation would expedite the prosecution of this application, the Examiner may reach the undersigned at (408) 971-2573. For payment of any additional fees due in connection with the filing of this paper, the Commissioner is authorized to charge such fees to Deposit Account No. 50-1351 (Order No. NVIDP374/P002185).

Respectfully submitted

By: 

Kevin J. Zilka

Reg. No. 41,429

Date: 2/16/06

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